INDEX

	Page
Opinion below	1
Jurisdiction	1
Questions presented	2
Statute involved	2
Statement	3
Summary of argument	15
Argument:	
The Selective Service authorities were warranted in finding that petitioner's opposition to war is not based on an obligation superior to that arising from any human relationship	16
Conclusion	22

CITATIONS

Cases:

Cox v. *United States*, 332 U.S. 442 — 18

Dickinson v. *United States*, 346 U.S. 389 — 18

Eagles v. *Samuels*, 329 U.S. 304 — 18

Estep v. *United States*, 327 U.S. 114 — 18

Gonzales v. *United States*, 364 U.S. 59 — 18

United States v. *Jakobson*, No. 51, this Term — 15, 16, 18

United States v. *Seeger*, No. 50, this Term — 2, 15, 16

Statute:

Section 6(j), Universal Military Training and Service Act, 50 U.S.C. App. 456(j) — 2, 15, 16, 17

748-110—64——1

In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 29

FOREST BRITT PETER, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINION BELOW

The opinion of the court of appeals (R. 88–96) is reported at 324 F. 2d 173.

JURISDICTION

The judgment of the court of appeals was entered on October 30, 1963 (R. 96). A petition for rehearing was denied on December 10, 1963 (R. 97). Mr. Justice Douglas extended the time for filing a petition for a writ of certiorari to and including January 24, 1963 (R. 98), and the petition was filed on that day. The petition was granted on May 4, 1964 (R.

99). 377 U.S. 922. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether petitioner was exempt from the draft as a conscientious objector on the ground that his opposition to war in any form resulted from his "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation" within the meaning of Section 6(j) of the Universal Military Training and Service Act.

2. Whether Section 6(j) is constitutional if it does not permit petitioner to qualify as a conscientious objector.[1]

STATUTE INVOLVED

Section 6(j) of the Universal Military Training and Service Act, 50 U.S.C. App. 456(j), provides:

> Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code.

[1] This second issue is discussed in the government's brief in the companion case of *United States* v. *Seeger*, No. 50, this Term.

STATEMENT

Petitioner was convicted in the United States District Court for the Northern District of California, sitting without a jury, of failure to submit to induction into the armed forces and was sentenced to six months' imprisonment.

Petitioner initially registered with his local board on July 10, 1956 (R. 13). On May 29, 1957, while a student at Reed College, he filed the standard classification questionnaire (R. 14–20). With the questionnaire he submitted a poem expressing objection to war and a statement indicating that he was of the same view (R. 23).[2] At this stage, he made no claim for an exemption as a conscientious objector (R. 16). Petitioner first requested classification as a conscientious objector and asked for an SSS Form 150 on March 4, 1958 (R. 24). He did not sign the form's printed statement that his objection to war was "by reason of my religious training and belief"; and, in answer to the question relating to his belief in a "Supreme Being," he stated that "[i]t depends on the definition" (R. 25). He appended the following explanation (R. 27):

> Since human life is for me a final value, I consider it a violation of moral law to take human life. I think I have reached this conviction out of my reading of such writings as those of Blake (christian mystic), Emerson,

[2] When, four years later, he received his notice to report for his physical examination and informed the local board that he would not comply, he submitted the same poem to the board and again indicated his concurrence (R. 62).

Whitman, and more modern poets who have touched on the question.

I consider this belief to be superior to my obligation to the state.

In so far as this conviction is religious, it has been best described by Rev. John Haynes Holmes as follows: "Religion is the consciousness of some power manifest in nature which helps man in the ordering of his life in harmony with its demand . . . (it) is the supreme expression of human nature; it is man thinking his highest, feeling his deepest, and living his best."

* * * [T]he source of my conviction concerning the sacredness of human life and the human spirit has been my experience and study in our democratic american culture, with its values derived from the western religious and philosophical tradition. As I have indicated above, I feel that I have learned of the values of this tradition through personal reading and meditation rather than through experience in any organized groups.

The use of violence (physical force) comprises the ends one seeks in action. I consider war to be the greatest example of this. The use of non-violence in the freeing of India and the Montgomery bus strike is an example of the kind of force I do believe in.

In response to the question calling for "actions and behavior" demonstrating the "consistency and depth" of his religious convictions, he stated that "[n]one enters my mind at the moment" (R. 26); he further stated that he was not a member of a religious sect or organization (R. 28).

The local board rejected petitioner's application for classification as a conscientious objector and classified him 1-A (R. 21). It nonetheless granted his request for a hearing in order to enable him to make a personal presentation of his beliefs (R. 31). In connection with the hearing, petitioner wrote to the board stating that "[a]s I understand the word religious, I think my stand has a religious basis" (R. 32). He also submitted a written addition to his prior answers to SSS Form 150 (R. 33):

> All real living is meeting—MARTIN BUBER.
>
> I have this God inside of me. To be truthful, I don't know if it's a long or short God or even a Superior God (much less a Supreme Being) and I have no idea what its sex is. I'm even worried about calling it God. After all a great deal of death has been done in the name of God.
>
> This God, this God I have inside of me goes off every once in a while and opens me to the motions, to beauty and sadness in the universe. That is, now and again I feel the compulsion to meet the world around me. I'm filled with wonder, I'm possessed as it were, I feel so good I think I'm crazy. So my God isn't beyond me, it's within me and opens me to Godliness in the world.
>
> I see an army over this world of wonder. Such stupidity and wasted energy. It's liable to kill us all.

Following the hearing, the board affirmed petitioner's classification (R. 21). Petitioner wrote to the board that its decision "was not a surprise con-

sidering my lack of 'proof' and your lack of moral courage," and added that "I just hope the war that you support won't kill us all in the next few years" (R. 34). His file was then forwarded to the selective service appeal board, which "tentatively determined that the registrant should not be classified in Class I–O or in a lower class" (R. 21).

The matter was then referred to the Department of Justice. After the required F.B.I. inquiry, petitioner received a hearing which he attended with his advisor and two additional witnesses. Among the persons whom the F.B.I. interviewed was one of petitioner's former high school teachers, who said that petitioner had "come to the unshakable opinion that the leaders of the world, including the United States, are pursuing a pa[th] of folly and that something will be done which will exterminate the human race," and that petitioner felt that "he could not conscientiously participate in military service as an implement of present day policy" (R. 39). The teacher further stated that, on the basis of recent conversations with petitioner, he believed that petitioner "had become more adamant in his position but that his reasons have become confused and [he] finds it difficult to put his position in words" (R. 39). Another person interviewed, a close friend, stated that petitioner was most influenced by the poet William Blake, the novelist D. H. Lawrence, and the Jewish theologian Martin Buber; that he had spent much recent time in readings on Oriental religion; and that he had become familiar with writers like Alan Watts, a radio broadcaster and

former Anglican minister. The friend said that petitioner "has no church affiliation but is neither atheistic nor agnostic and the trend of his thinking is toward mystical writings" (R. 43). By "mystical," the friend said, he meant that "life is a mystery and cannot be explained"; he added that the writers who have influenced petitioner are mystical and that petitioner's discussions reveal that he "believes that the whole scheme of things which would make killing a justifiable and meaningful act is wrong" (R. 44). Similarly, petitioner's witnesses at the Department of Justice hearing offered the opinion that his beliefs "most nearly resembled Buddhism," and his "advisor," upon being read the pertinent portions of Section 6(j) pertaining to belief in a Supreme Being, stated that he thought petitioner's "position to be sufficient or was becoming sufficient in that respect" (R. 37).

Prior to the hearing, petitioner submitted further additions to his SSS Form 150. In answer to the question concerning actions which demonstrate the consistency and depth of his religious convictions, he stated that that was for others and not himself to say, and that he knew "only that at times I fel[t] as if I were 'playing in the world' that part of this realization is a knowledge of the wastefulness of physical violence (the state's continual mobilization for war)" (R. 52). In answer to the question concerning prior public expression of his views, he noted that he had participated in several poster marches calling for the abolition of the use of nuclear weapons (R. 53), that he had "put together an Anthology of Peace Poetry

for Acts for Peace," and that he was a contributing editor for a publication called *Utopian Papers* (R. 54). He also mentioned "long walks in the night," taken with a friend, during which "both agreed time and again that the military institution and war were colossal follies" and that "no cause could justify the slaughter and tremendous expenditure [i]nvolved in maintaining or using an army" (R. 53). He added that "[w]e also spoke; said nothing, wondered at the beauties of the night" (R. 53).

The hearing officer concluded that petitioner "evidenced neither religious training and belief nor belief in a Supreme Being as defined in the Military Training and Service Act." He recommended that petitioner's claim not be sustained (R. 37). The Department of Justice concurred (R. 38). Petitioner was informed of his right to file a written reply to the Department recommendation (R. 54). In response, he submitted, in addition to a specific reply, a "further statement of the religious motivation" of his objection, a statement on the anniversary of the bombing of Hiroshima, and a letter from a friend, signed "John Doe," which he stated "throws light on the psychology of my own objection" and which "I am in more than partial agreement with" (R. 55). In regard to Hiroshima, petitioner stated, "My mind does not dwell on the mutilation of that cit[y's] people. I do though, damn the logic of a State that could find justice in such an act [of] d[e]struction" (R. 57). The letter from "John Doe" set forth that the writer believes in America as "a meeting of all races" and "a thing that

happened when men began to outgrow those subdivisions and saw his responsibility was to mankind," and that, because he believes "in the ultimate rightness of America" and "the ultimate rightness of man," he recoils "from the idea of involving myself with any military procedure these days when man has come so near to arranging his suicide" (R. 56).[3]

In further explaining the purported "religious" motivation of his objection, petitioner said (R. 60–61):

> I have never directly answered 'yes' or 'no' to your question "Do you believe in a Supreme Being" because I do not know what you mean by the phrase. Any theologian would also wonder as to your meaning. And perhaps also wonder at the wisdom of legally defining the essence and existence of a God.
>
> I have tr[i]ed however to give a picture of my own 'religiousness' and show how it motivates my objection.

---

[3] The letter ended (R. 57):

> My very constitution would rebel from killing a man in such circumstances. I could not help but realize my enemy is not this man but those who forced me there.
>
> Your cause is yours
> cause for anger?
> cause for reflection?
> cause for genuflection?
> cause for poetry?
> cause you would oppose?
> I am as godless as the gods.
> My cause is theirs.
> I am not conscientious, that is for Britt Peter to be;
> I am conscious.

I can't honestly say a Supreme Being directs creation, I DON'T KNOW. However, I'm moved by many of the elements in the world—in creation.

You might say I l ve in them. I believe in these elements because they are there. I think this process—call it belief if you like—is different than simply knowing as if love or a knowledge of God were just facts. Looking into the world I find solace or pain but no answers; A voice that says made in heaven by the Supreme Being as defined by the United States Government is not there, but space is; Room for limitless understanding and concern.

Or:

We say, that a tree is beautiful. But why? Because the tree moves us. The branches, the leaves, the very form of the tree, the forces it exemplifies. I do not choose to name this tree God as if that would explain its reason or essence. This is a very distinctive tree and deserves a new name and a reverence that is open to the endless number of things the tree tells us—of form, life and death, of ourselves; our own existence.

I don't think this is lack of belief. I'm upheld by creation, finding ease as well as pain there.

THERE'S NO FALLING OUT
OF THIS WORLD
OF LONG GRASS
AND BASS NOTES
THINSKIN, DON'T HOLD
ON SO.

I believe in elements of this creation like star or animal motion. And I'd work toward

> an understanding with them called living relationship or form of love."
>
> This is the conscious effort of my life and I have already suffered some regarding it. The energy involved is considerable but I do not think it wasted, like that given to an Army or a selfish love. Nor do I know how wise I am in my devotion.

The appeal board voted 5 to 0 to continue petitioner's 1–A classification (R. 21). Thereafter, on July 20, 1961, petitioner was ordered to report for a pre-induction physical examination (R. 63). He did not report, informing the local board by mail that he would not do so in accordance with his "previously stated views and beliefs as a conscientious objector" (R. 62).

As the result of his failure to appear for the examination, petitioner was sent a Delinquency Notice (R. 64). He replied by writing the board that "I could not and will not participate in a physical examination whose purpose is to define my fitness for service in the *Armed* forces" (R. 66).

On October 13, 1961, petitioner was ordered to report for induction as a delinquent (R. 65). On the advice of counsel he reported to the induction center at the appointed time, but refused to be processed for induction (R. 67–69). Subsequently, petitioner's file was sent to the United States Attorney in San Francisco for prosecution (R. 75).

Petitioner's final expression of his views, prior to his trial, was contained in a letter which he wrote to the Director of Selective Service seeking a Presiden-

tial appeal (R. 82–87). He began by stating that he had not answered "yes" or "no" to the question of a belief in a Supreme Being because "I was not sure of the Government's definition of a Supreme Being," and such a definition, it seemed to him, "would trap the government into the tangle of proving God's existence and God's specific character" which is "[s]omething government officials have neither the right or inclination to do" (R. 82). He further stated that he could not answer with a simple "yes" or "no" how a relationship to a Supreme Being affects his actions in opposition to war, since "[t]he nature of my belief is more complex" and he places "the stress of my belief on the products, the elements in creation, rather than on a reverence toward the possible Creator of these elements and mysteries of the universe" (R. 83). He contended, in short, that he is "motivated by what Albert Schweitzer calls a 'reverence for Life,'" and feels "that each individual has the potential of realizing every moment of his life until death and that I as another human being cannot deny him the destiny his life might follow, no matter how wrong-headed it might seem" (R. 83). He added that "[t]he presence of other living being in the universe sounds a call, presents a vision, a fact, a mysterious reality that I cannot deny and to which I feel the impulse to relate," and that he views "physical violence on the other hand as a denial of life" (R. 84). Hence his pacifist conviction "is not based on intellectual conclusions alone [b]ut is primarily based on the promptings of my heart and the sense of relationship with all living elements in nature" (R. 84).

Petitioner contended that his "religious convictions" are based upon "the example and inspiration of Guatama whose four-fold truth is still a valid prescription for human happiness and if followed would bring an end to the threat of actuality of war"; upon "the Tao Te Cheng of Lao Tzu which so beautifully expresses a reverence and relationship to all the manifestations of the natural world"; upon "the example of non-violent action in some of the parables of Jesus and in the life of St. Francis"; upon "the inspiration of the Bal Shem Tov founder of the Hassidic movement in Eastern Europe, who said the expression of love toward God and his images on earth, were open to all, even the most ignorant, that they might express that love in the manner by which they were moved [e]ven if they knew not a single letter or word of Torah"; and upon "the work of Ghandi who brought religious conviction into non-violent political activity" (R. 85–86). He concluded (R. 86):

> There is the love of life and reverence toward living things expressed by many poets throughout the ages. They seem to be brothers at the urn of some common goddess though she has never been finally named or particularized.

At the trial petitioner explained the basis for his claim to be a conscientious objector as follows (R. 10–11):

> I think that my actions are probably motivated most thoroughly by a feeling of relationship and love towards other human beings, and other living objects in the world, and in seeing

> these other living objects. I can narrow it down closer; I can define it as a belief in the mystery of the heart of them, the essence being alive, and my respecting and loving this livingness in other objects and human beings.
>
> * * * * *
>
> I suppose you could call that a belief in the Supreme Being or God. These just do not happen to be the words I use.

He said he had acquired these beliefs "through my reading, association with other people, and living in the world," and that his reading had included Eastern philosophies, Confucius, Buddhist teachings, Christian mystics, Ralph Waldo Emerson, Whitman, Thoreau, and others (R. 9–10). On cross-examination, when petitioner was asked whether he deemed his beliefs religious "in that they relate to your convictions regarding reality," he answered, "Yes" (R. 11). He defined religion as (R. 11):

> based on two things. Number one would be vision, a vision of reality in the world or the universe, and second is conviction regarding that vision, the way a person reacts to his vision of reality.

On appeal from his conviction, petitioner contended only that he was within the statutory definition of a conscientious objector (R. 94). The court of appeals found that there was ample basis for the determination of the selective service board that petitioner's beliefs did not meet the statutory standards fixed by Section 6(j) for conscientious objectors in that peti-

tioner did not show that his opposition to war was based on belief in a Supreme Being (R. 95–96).

SUMMARY OF ARGUMENT

Section 6(j) grants an exemption to all conscientious objectors whose objections to military service have a religious basis. It carefully excludes those whose objections lack such basis. As we have shown in our brief in the companion case of *United States* v. *Jakobson*, No. 51, this Term, the history of this provision and of predecessor statutes shows that the requirement of religious training and belief was written into the law for the specific purpose of distinguishing between views derived from one's sense of obligation to one's fellow man and views based upon belief in relation to a Supreme Being (however conceived or defined) imposing duties superior to all human relationships.

In the companion case of *United States* v. *Seeger*, No. 50, we have dealt with the constitutional question whether Congress may grant an exemption to persons whose objections to military service are based upon a conflicting religious obligation without extending a similar grant to those who object on political, sociological, or philosophical grounds. We there argue that this is a reasonable and permissible accommodation between the needs of national defense and the freedom of religion guaranteed by the First Amendment. Assuming that in *Seeger* the Court rejects the constitutional challenge to the statute, the issue in the instant case narrows to the question whether

the selective service authorities had some basis in fact for concluding that respondent's objections were grounded essentially upon a personal moral code rather than upon a religious obligation. Taking into account the prerogatives of the Selective Service authorities in assaying the facts and the very limited scope of judicial review in this area, we believe that the administrative determination should not be disturbed.

ARGUMENT

THE SELECTIVE SERVICE AUTHORITIES WERE WARRANTED IN FINDING THAT PETITIONER'S OPPOSITION TO WAR IS NOT BASED ON AN OBLIGATION SUPERIOR TO THAT ARISING FROM ANY HUMAN RELATIONSHIP

Although petitioner contended below only that he is entitled to an exemption under the terms of Section 6(j) of the Universal Military Training and Service Act, 50 U.S.C. App. 456(j), *supra*, p. 2, he raises here, for the first time, the contention that the Section, if it is not interpreted to extend an exemption to him, is unconstitutional. We have dealt with the constitutional issue in the companion case of *United States* v. *Seeger*, No. 50, this Term. Assuming that in *Seeger* the Court rejects the constitutional challenge to the statute, the issue in this case, as in *United States* v. *Jakobson*, No. 51, this Term, is whether petitioner satisfies the standards for exemption established by Section 6(j).

In our brief in *Jakobson*, pp. 18–23, we show, on the basis of its history, that Section 6(j) was intended to permit exemption to all persons who oppose war in any form because of religious convictions. We also

argue in that brief that religious conviction means an obligation to a Supreme Being (however conceived or defined) which imposes duties superior to all human relationships. We also submit that reverence for the power and beauty of nature does not constitute an affirmation of belief in a Supreme Being. In short, Section 6(j) required that the opposition to war be based on something more than man's relationship to the human and physical world. Respondent appears to agree that the statute allows exemption for all religious objectors in the sense that they believe in a force above man or the physical world. Therefore, the sole issue here (other than the constitutionality of Section 6(j)) is whether there is basis in fact for the administrative determination that respondent's objections to war were grounded upon a personal moral code rather than a religious obligation.

Petitioner's beliefs show some similarity to those of Jakobson. Neither fits into an orthodox theological system; to the contrary, both are the result of personal conception and development. Both men base their refusal to accept induction into the armed forces upon what they term their "religious" concepts, but neither contends that such refusal is a response to what he deems to be a divine command. Both rely on both religious and non-religious writers. On the other hand, whereas Jakobson sometimes indicated belief in a "Supreme Reality," petitioner, if he places anything at all above man, seems to see this "something" as merely the forces of nature. Therefore, while petitioner's views are not free from ambiguity, we believe

that the findings of the Selective Service system, as well as of the courts below, have a basis in fact.

As we have shown in our brief in *Jakobson,* pp. 24–25, this Court has made clear that the scope of judicial review of the classification of a registrant made by the Selective Service authorities is very narrow. The question is not even whether the determination is sustained by substantial evidence, but, rather, whether there is *any* basis in fact upon which it can be sustained. *Estep* v. *United States,* 327 U.S. 114, 122–123; *Cox* v. *United States,* 332 U.S. 442, 448–449 455; *Dickinson* v. *United States,* 346 U.S. 389, 394; *Gonzales* v. *United States,* 364 U.S. 59, 65; see also *Eagles* v. *Samuels,* 329 U.S. 304, 311.

As in *Jakobson,* the beliefs of petitioner are complicated and not entirely clear. However, while petitioner stated that he has a "God inside of me" which "opens me to Godliness in the world" (R. 33), it seems that this "God" constitutes merely human life or the forces of nature. He stated that he does not know whether the God inside of him is "a Superior God (much less a Supreme Being)" and that he is "even worried about calling it God" (R. 33). He explained his unwillingness to answer whether he believes in a Supreme Being by stating that "I do not know what you mean by the phrase" (R. 60; see also R. 25, 82). He said that he could find "solace or pain" in the world "but no answers" (R. 60). He further stated that "I don't know" whether "a Supreme Being directs creation" but that "I'm moved by many of the elements in the world—in

creation" (R. 60). Petitioner said that he believes in these elements, such as space or a "star or animal motion," "because they are there" (R. 60, 61). He explained that a thing like a tree exemplifies "forces" and deserves "a reverence that is open to the endless number of things the tree tells us—of form, life and death, of ourselves; our own existence" (R. 60–61). He said that his views are best described in Rev. John Haynes Holmes' statement that "[r]eligion is the consciousness of some power manifest in nature which helps man in the ordering of his life in harmony with its demands" (R. 27). He asserted that "[t]he presence of other living being in the universe" is "a mysterious reality that I cannot deny and to which I feel the impulse to relate" (R. 84). While a friend said that petitioner "is neither atheistic nor agnostic and the trend of his thinking is toward mystical writings," he defined "mystical" as "life is a mystery and cannot be explained" (R. 43, 44).

Moreover, petitioner made quite clear that, even if it were sufficient (for purposes of the statute) to believe in a Supreme Being in the sense of nature, his opposition to war is not based on any obligation transcending that of man to man. He stated that "[s]ince human life is for me a final value, I consider it a violation of moral law to take human life," and described this moral law as "the sacredness of human life and the human spirit" (R. 27). He could not answer how a relationship to a Supreme Being affects his actions in opposition to war since he placed "the stress of my belief on the products, the elements in creation, rather than on a reverence toward the pos-

sible Creator of these elements and mysteries of the universe" (R. 83). It appears, then, that the real basis of his opposition to war is the essential political, sociological, or philosophical belief that war is wrong and will cause the destruction of the human race. For example, he said that armies involve "[s]uch stupidity and wasted energy" and are "liable to kill us all" (R. 33); that the United States is "pursuing a pa[th] of folly and that something will be done which will exterminate the human race" (R. 39); that he could not serve in the armed forces "as an implement of present day policy" (R. 39); that "the military institution and war were colossal follies" and "no cause could justify the slaughter and tremendous expenditure [i]nvolved in maintaining or using an army" (R. 53). Petitioner said that he was "in more than partial agreement" with a letter (which he submitted) stating that the writer recoiled "from the idea of involving myself with any military procedure these days when man has come so near to arranging his suicide" (R. 55, 56). "[T]he conscious effort of my life," according to petitioner, is "to work toward an understanding with [the elements of creation] called living relationship or form of love" (R. 61). He stated that he is motivated by a "reverence for life," that "physical violence on the other hand [is] a denial of life," and that his opposition to war "is primarily based on the promptings of my heart and the sense of relationship with all living elements in nature" (R. 83, 84).

Finally, at his trial, petitioner summarized his views (R. 10–11):

> I think that my actions are probably motivated most thoroughly by a feeling of relationship and love towards other human beings and other living objects in the world, and in seeing these other living objects. I can narrow it down closer; I can define it as a belief in the mystery of the heart of them, the essence being alive, and my respecting and loving this livingness in other objects and human beings.
>
> * * * * *
>
> I suppose you could call that a belief in the Supreme Being or God. These just do not happen to be the words I use.

In short, there is evidence that petitioner does not believe in a Supreme Being superior to the ordinary physical world, and that, even if he does, his opposition is not based on this belief.

The local board classified petitioner 1–A (R. 21). The hearing officer concluded that he "evidenced neither religious training nor belief in a Supreme Being as defined in the Military Training and Service Act" (R. 37), a conclusion in which the Department of Justice and appeal board concurred (R. 38). We submit that the statements of petitioner, described above, constitute basis in fact for this determination. We therefore believe that, under the standards of review handed down by this Court, the determinations of the local and appeal boards should be sustained.

CONCLUSION

For the foregoing reasons, we respectfully submit that the judgment below should be affirmed.

ARCHIBALD COX,
Solicitor General.
HERBERT J. MILLER, JR.,
Assistant Attorney General.

OCTOBER 1964.

U.S. GOVERNMENT PRINTING OFFICE: 1964